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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,445	07/06/2005	Takashi Fujimoto	450100-04897	6371
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
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EXAMINER				
AGUSTIN, PETER VINCENT				
ART UNIT		PAPER NUMBER		
2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,445

Applicant(s)

FUJIMOTO ET AL.

Examiner

Peter Vincent Agustin

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application is a national stage entry (371) of PCT/JP03/15817, filed December 10, 2003.
2. Claims 1-7 are currently pending.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 22, 2008 has been entered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 & 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kono (US 5,305,296).

In regard to claim 1, Kono discloses an optical recording method in an optical recording device for recording data on an optical recording medium by an optical pickup (see title), said optical recording method comprising the steps of: searching a test writing area (Figure 2, step S9: "search test area") for a stand-by position that can be used for an Optimum Power Calibration (OPC) on the optical recording medium, wherein said searching the test writing area is

performed after the optical recording medium is inserted into the optical recording device (step S1: "disc is loaded") and prior to receiving an input to start a recording operation (step S12; see column 11, lines 6-26: "a command to search for a finally recorded position"... "a command is issued to search for a predetermined recording starting position in the program area in the optical disc"... "start a recording operation process for recording desired information"); stopping the optical pickup at the stand-by position (column 4, lines 53-59: "searching the plurality of test areas for one test area") until an input of a recording operation of data is received (step S12; see column 11, lines 6-26); carrying out an OPC operation at the stand-by position (column 4, lines 53-59: "applying the light beam to the test area to effect test recording therein to measure an optimum light intensity for recording information") when an input of a recording operation of data is received (column 4, line 51: "in response to a predetermined command"); moving the optical pickup to a data recording area on the optical recording medium after an optimum power is obtained (step S12: "search for finally recorded position"); and recording the data in the data recording area on the optical recording medium by the optical pickup (column 4, lines 59-62: "recording information in the information recording area with the light beam applied thereto with the measured optimum light intensity").

Claim 4 has similar limitations as claim 1 and is rejected on the same grounds.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 5 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kono in view of Hagiwara et al. (US 6,987,717).

For a description of Kono, see the rejection above. However, Kono does not disclose: in regard to claim 2, that real recording data is recorded in the data recording area by the optical pickup moved to the data recording area on the optical recording medium to obtain a reference value of a Running Optimum Control (R-OPC) and record the data while the R-OPC is performed on the basis of the obtained reference value; and in regard to claim 3, that the reference value of the R-OPC is obtained in accordance with a normalization by a normalizing coefficient table read upon inserting an optical disc.

Hagiwara et al. disclose: in regard to claim 2, that real recording data is recorded in a data recording area by an optical pickup moved to the data recording area on an optical recording medium to obtain a reference value of a Running Optimum Control (R-OPC) and record the data while the R-OPC is performed on the basis of the obtained reference value (column 27, lines 46-60); and in regard to claim 3, that the reference value of the R-OPC is obtained in accordance with a normalization by a normalizing coefficient table read upon inserting an optical disc (column 27, lines 50-54: "a value obtained by, for example, normalizing a level of the reproduction signal during a recording by the recording power is considered as a B-value"; column 27, lines 57-58: "optimum B-value determining/storing unit 109").

It would have been obvious to one of ordinary skill in the art at the time of invention to have applied this teaching of Hagiwara et al. to the method of Kono, the motivation being to accurately determine the recording power and other recording conditions even at a different linear velocity, thereby performing high-quality recording (column 29, lines 21-25).

Claims 5 & 6 have limitations similar to those of claims 2 & 3; therefore, they are rejected on the same grounds.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kono in view of the admitted prior art.

For a description of Kono, see the rejection above. However, Kono does not disclose: in regard to claim 7, an image pick-up means to record a video signal obtained by the image pick-up means on the optical recording medium.

The admitted prior art discloses: in regard to claim 7, an image pick-up means to record a video signal obtained by the image pick-up means on an optical recording medium (understood from page 7, paragraph 3 of the specification). It would have been obvious to one of ordinary skill in the art at the time of invention to have applied the teachings of the admitted prior art to the recording device of Kono, the motivation being to enable storage of video data.

Response to Arguments

9. Applicant's arguments filed December 22, 2008 have been fully considered but they are not persuasive.

(a) Applicant argues (e.g., see page 7, paragraph 2) that Kono does not search the test writing area for a calibration position after insertion of the recording medium and before receiving the start recording operation, and that the PCA in Kono is searched after receiving the start-recording instruction. The examiner disagrees. As shown in Figure 2, Kono teaches searching a test writing area in step S9, which is clearly after insertion of an optical recording medium (step S1) and before receiving a start recording operation (step S12). Step S12 is more clearly described in column 11, lines 6-26, which mention

“a command to search for a finally recorded position”, “a command is issued to search for a predetermined recording starting position in the program area in the optical disc”, and “start a recording operation process for recording desired information”. It should be noted that this “command” for recording pertains to actual data, and is different from the command for recording PCA information implied by step S5 in Figure 2.

(b) In response to applicant’s argument on page 8, paragraph 2 that the method in Kono describes that PMA not the PCA is searched after insertion of the recording medium, the examiner never relied on the PMA of Kono in the rejections. As clearly pointed out in the rejections, the examiner relies on step S9 of Figure 2 for teaching searching a test writing area.

(c) In response to applicant’s argument on page 9, paragraph 1 that “Kono is receiving a start-recording instruction and the PCA has not yet been searched”, the applicant appears to be referring to steps S2 through S5 in Figure 2, which all occur before the test area searching step S9, and are pertaining to a recording command for recording PCA information. As noted in the rejections, the examiner relies on column 11, lines 6-26 for teaching a recording command for recording of actual data, which is also step S12 in Figure 2, see item (a) above.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is (571) 272-7567. The examiner can normally be reached on Monday-Thursday 8:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter Vincent Agustin/
Primary Examiner, Art Unit 2627